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HUFF, SHEELA JITENDRA	
ART UNIT	PAPER NUMBER
1643	

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10/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/700,402	GEVAS ET AL.	
	Examiner	Art Unit	
	Sheela J. Huff	1643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 September 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8 and 19-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8 and 19-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *9/27/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The amendment filed on 9/27/07 has been considered. Applicant's arguments are deemed to be persuasive-in-part.

Claims 1-8 and 19-31 are pending.

The objection to claims 8-9 is withdrawn in view of applicant's amendment.

The objection to the specification is withdrawn in view of applicant's amendment.

The rejections under 35 U.S.C. 112, second paragraph, are withdrawn in view of applicant's amendments.

The rejection of claims 1, 7, 10 and 16-17 under 35 U.S.C. 102(b) as being anticipated by EP 755683 A1 is withdrawn in view of applicant's arguments.

The rejection of claims 1, 7, 10 and 15-18 under 35 U.S.C. 103 as being unpatentable over EP 755683 A1 in view of Morozov et al US 5770576 and Harrison et al Cancer vol. 66 p. 1449 (1990) (abstract only) is withdrawn in view of applicant's arguments.

The rejection of claims 1-18 under 35 U.S.C. 103(a) as being unpatentable over Watson et al Cancer Research vol. 56 p. 880 (1996) in view of Morozov et al US 5770576 and Harrison et al Cancer vol. 66 o. 1449 (1990) (abstract only) is re-written below.

The duplicate claim warning is withdrawn in view of applicant's cancellation of the claims.

Information Disclosure Statement

The information disclosure statement filed 9/27/07 has been considered and an initialed copy of the PTO-1449 is enclosed.

Response to Arguments/New Grounds of Rejection

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-2, 6-7, 19 and 30-31 are/remain provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2, 4, 5, 12, 14-16 and 18-19 of copending Application No. 11/360378. The reasons for this rejection are of record in the paper mailed 3/27/07.

Applicant wishes to defer resolution of this rejection until he can amend the claims in the copending application. This rejection is maintained until that time.

Claims 1-2, 6-7,19 and 30-31 are/remain directed to an invention not patentably distinct from claims 1-2, 4, 5, 12, 14-16 and 18-19 of commonly assigned 11/360378. The reasons for this are of record in the paper mailed 3/27/07.

Claim Rejections - 35 USC § 112

Claims 19-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. THIS IS A NEW MATTER REJECTION.

In claim 19 applicant claims that the immunogen neutralizes gastrin. On page 8, lines 20-25, the specification discloses neutralizing G17 not gastrin.

In claim 22, applicant claims that the immunogen "enhances capacity to bind to lymphocyte receptors". This concept was not found in the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-8, 18-28 and 31 are rejected under 35 U.S.C. 102(a) as being anticipated by Watson et al Int. J. Cancer vol. 75 p. 873 (3/6/1998).

This reference discloses Gastrimune which is composed of the amino terminus of gastrin 17- linked to DT used in combination with 5-Fluorouracil/Leucovorin to reduce the tumor growth in a rat model. The Gastrimmune neutralizes gastrin17. (see abstract and entire reference).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-8 and 19-31 rejected under 35 U.S.C. 103(a) as being unpatentable over Watson et al Cancer Research vol. 56 p. 880 (1996) in view of Morozov et al US 5770576 and Beauchamp et al Annals of Surgery vol 202 p. 303 (1985).

Watson et al discloses Gastrimmune which is composed of the amino terminal of G17 linked to diphtheria toxin (DT) and is used to inhibit the growth of colon cancer and to neutralize gastrin (abstract). Since the Gastrimmune is used in vivo it is expected that it is present in a pharmaceutical composition (abstract). This immunogen is composed of the N-terminal 9 amino acids of G17 linked to DT (p. 880, second column second full paragraph). As seen in Figure 2, Gastrimmune also includes a spacer peptide that projects the peptide away from the carrier.

The only difference between this invention and the reference is the combination of the Gastrimmune and a chemotherapeutic agent and the formulation of the combination as separate or same.

The chemotherapeutic agents of claims 6 and 25 are known in the art. For example, Morozov et al discloses that the chemotherapeutic agents, cisplatin, leucovorin, fluorouracil, levamisole and tumor necrosis factor are known in the art and

can used in combination with other drugs. Beauchamp et al shows that proglumide inhibits growth of colon cancer.

In view of the known use of chemotherapeutic agents, cisplatin, leucovorin, fluorouracil, levamisole, proglumide and tumor necrosis factor, it would have been obvious to one ordinary skill in the art at the time of applicant's invention to use the chemotherapeutic agents in the treatment of colon cancer. It is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... [T]he idea of combining them flows logically from their having been individually taught in the prior art." In re Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980). From this it also follows that the order of administration of each component (together or separately) is within the purview of one of ordinary skill in the art.

Response to applicant's arguments to the extent that they read on the above rejection

Applicant argues that the combination of the antigastrin immunogen and chemotherapeutic agent is synergistic and cites Example 5 and a declaration that has not yet been submitted. This example appears to be incomplete. The specification states that the reduction of the FU/leucovorin dose to 20mg/kg in combination with anti-G17(1-9)-DT shows significant reduction in tumor growth. However, the specification does not show the reduction in tumor growth using FU/leucovorin at 20mg/kg--it only shows the dosage at 30mg/kg--nor does the specification show the amount of tumor

reduction using anti-G17(1-9) alone. Thus, appropriate controls were not used. Furthermore, fig. 5 and 4 refers to Gastrimmune and this is not defined in the specification. Applicant is cautioned against the addition of new matter. Furthermore, the dose of FU/leucovorin at 30 mg/kg and anti-G17(1-9)-DT as compared to FU/leucovorin alone shows no significant reduction in tumor growth--ie no synergistic effect.

Applicant also argues that Morozov teaches away from combining an immunotherapeutic agent with a chemotherapeutic agent. Applicant does not point to where this is found. More, importantly, this reference was merely cited to show that cisplatin, leucovorin, fluorouracil, levamisole and tumor necrosis factor are well known in the art and can be used with other agents. Similarly Beauchamp et al was cited to also show what is known in the art.

Claims 1-4, 6-8 and 19-22 and 25-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaeli et al US 6548066 (filed 5/12/97) in view of Morozov et al US 5770576 and Beauchamp et al Annals of Surgery vol 202 p. 303 (1985).

Michaeli et al disclose compositions comprising gastrin immunogens composed from the human CCk-gastrin receptor and that these immunogens also comprise a spacer peptide and that they are also conjugated to carriers such and Dt (col. 3, lines 25-35). The reference specifically discloses that the immunogens of the reference inhibit the binding of human G17 (see col. 4 lines 34-36). These immunogenic

compositions are used to treat gastrointestinal cancers (col. 6, lines 30+). The immunogenic compositions can be used with other medicinal gents (col. 7 lines 38-55).

The only difference between this invention and the reference is the combination of the immunogen and a chemotherapeutic agent and the formulation of the combination as separate or same.

The chemotherapeutic agents of claims 6 and 25 are known in the art. For example, Morozov et al discloses that the chemotherapeutic agents, cisplatin, leucovorin, fluorouracil, levamisole and tumor necrosis factor are known in the art and can used in combination with other drugs. Beauchamp et al shows that proglumide inhibits growth of colon cancer.

In view of the fact that the primary reference states that other medicinal agents may be combined with their compositions and since the primary reference discloses the treatment of cancers, it would have been obvious to one ordinary skill in the art at the time of applicant's invention that the terms "other medicinal agents" reads on chemotherapeutic agents and therefore combining the known chemotherapeutic agents, such as cisplatin, leucovorin, fluorouracil, levamisole, proglumide and tumor necrosis factor, with the immunogenic compositions of the primary reference to treat colon cancer would be clearly obvious to those of ordinary skill in the art. Furthermore, it is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... [T]he idea of combining them flows logically from their having been individually taught in the prior art." In re Kerkhoven, 626 F.2d 846,

850, 205 USPQ 1069, 1072 (CCPA 1980). From this it also follows that the order of administration of each component (together or separately) is within the purview of one of ordinary skill in the art.

Claims 1-8 and 19-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gevas et al WO 90/08774 in view of Morozov et al US 5770576 and Beauchamp et al Annals of Surgery vol 202 p. 303 (1985).

Gevas et al disclose the use of immunogens that neutralize gastrin, such as little G17 which has the sequence pyro-EGPWLEEEEEAY (reads on applicant's SEQ ID NO. 1) or all or parts of the sequence or such as anti-G17 antibodies to inhibit the growth of tumors dependent on gastrin (see pages 10-13 and abstract and Examples 6-7, page 13 specifically discloses SEQ Id NO. 1). The immunogen can be attached to a carrier such as DT and the reference also teaches extending the G17 by the addition of compounds that provides structures through with crosslinking can occur (reads on spacers) (page 16). This reference also discloses the use of other medicinal agents in combination with the immunogen (page 18).

The only difference between this invention and the reference is the combination of the immunogen and a chemotherapeutic agent and the formulation of the combination as separate or same.

The chemotherapeutic agents of claims 6 and 25 are known in the art. For example, Morozov et al discloses that the chemotherapeutic agents, cisplatin, leucovorin, fluorouracil, levamisole and tumor necrosis factor are known in the art and

can used in combination with other drugs. Beauchamp et al shows that proglumide inhibits growth of colon cancer.

In view of the fact that the primary reference states that other medicinal agents may be combined with their compositions and since the primary reference discloses the treatment of cancers, it would have been obvious to one ordinary skill in the art at the time of applicant's invention that the terms "other medicinal agents" reads on chemotherapeutic agents and therefore combining the known chemotherapeutic agents, such as cisplatin, leucovorin, fluorouracil, levamisole, proglumide and tumor necrosis factor, with the immunogenic compositions of the primary reference to treat colon cancer would be clearly obvious to those of ordinary skill in the art. Furthermore, it is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... [T]he idea of combining them flows logically from their having been individually taught in the prior art." In re Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980). From this it also follows that the order of administration of each component (together or separately) is within the purview of one of ordinary skill in the art.

Claims 1-8 and 19-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gevas et al US 5785970 in view of Morozov et al US 5770576 and Beauchamp et al Annals of Surgery vol 202 p. 303 (1985).

Gevas et al disclose the use of immunogens that neutralize gastrin, such as little G17 which has the sequence pyro-EGPWLEEEEEAY (reads on applicant's SEQ ID NO. 1) or all or parts of the sequence or such as anti-G17 antibodies to inhibit the growth of tumors dependent on gastrin (Col. 5, lines 16-65 col. 3, lines 20-30 and abstract). The immunogen can be attached to a carrier such as DT and the reference also teaches extending the G17 by the addition of compounds that provides structures through with crosslinking can occur (reads on spacers) (col. 7, lines 1-30). This reference also discloses the use of other medicinal agents in combination with the immunogen (col. 7 lines 50-65).

The only difference between this invention and the reference is the combination of the immunogen and a chemotherapeutic agent and the formulation of the combination as separate or same.

The chemotherapeutic agents of claims 6 and 25 are known in the art. For example, Morozov et al discloses that the chemotherapeutic agents, cisplatin, leucovorin, fluorouracil, levamisole and tumor necrosis factor are known in the art and can used in combination with other drugs. Beauchamp et al shows that proglumide inhibits growth of colon cancer.

In view of the fact that the primary reference states that other medicinal agents may be combined with their compositions and since the primary reference discloses the treatment of cancers, it would have been obvious to one ordinary skill in the art at the time of applicant's invention that the terms "other medicinal agents" reads on chemotherapeutic agents and therefore combining the known chemotherapeutic

agents, such as cisplatin, leucovorin, fluorouracil, levamisole, proglumide and tumor necrosis factor, with the immunogenic compositions of the primary reference to treat colon cancer would be clearly obvious to those of ordinary skill in the art. Furthermore, it is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... [T]he idea of combining them flows logically from their having been individually taught in the prior art." In re Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980). From this it also follows that the order of administration of each component (together or separately) is within the purview of one of ordinary skill in the art.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-8 and 19-31 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 5785970 in view of Morozov et al US 5770576 and Beauchamp et al Annals of Surgery vol 202 p. 303 (1985).

Gevas et al claim a method for the treatment of gastro-intestional disorders (encompasses tumors) using immunogens that neutralize gastrin, such as little G17 which has the sequence pyro-EGPWLEEEEEAY (reads on applicant's SEQ ID NO. 1) or all or parts of the sequence (claim 11) or such as anti-G17 antibodies. The immunogens can be attached to a carriers through spacers (claim 1)(col. 7, lines 1-30 specifically mentions DT as carrier).

The only difference between this invention and the reference is the combination of the immunogen and a chemotherapeutic agent and the formulation of the combination as separate or same.

The primary reference also discloses the use of other medicinal agents in combination with the immunogen (col. 7 lines 50-65).

The chemotherapeutic agents of claims 6 and 25 are known in the art. For example, Morozov et al discloses that the chemotherapeutic agents, cisplatin, leucovorin, fluorouracil, levamisole and tumor necrosis factor are known in the art and can used in combination with other drugs. Beauchamp et al shows that proglumide inhibits growth of colon cancer.

In view of the fact that the primary reference states that other medicinal agents may be combined with their compositions and since the primary reference discloses the treatment of cancers, it would have been obvious to one ordinary skill in the art at the time of applicant's invention that the terms "other medicinal agents" reads on chemotherapeutic agents and therefore combining the known chemotherapeutic agents, such as cisplatin, leucovorin, fluorouracil, levamisole, proglumide and tumor necrosis factor, with the immunogenic compositions of the primary reference to treat colon cancer would be clearly obvious to those of ordinary skill in the art. Furthermore, it is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... [T]he idea of combining them flows logically from their having been individually taught in the prior art." In re Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980). From this it also follows that the order of administration of each component (together or separately) is within the purview of one of ordinary skill in the art.

Claims 1-8 and 19-31 are directed to an invention not patentably distinct from claims 1-12 of commonly assigned US 5785970 for the reasons discussed above.

The U.S. Patent and Trademark Office normally will not institute an interference between applications or a patent and an application of common ownership (see MPEP Chapter 2300). Commonly assigned US 5785970, discussed above, would form the basis for a rejection of the noted claims under 35 U.S.C. 103(a) if the commonly

assigned case qualifies as prior art under 35 U.S.C. 102(e), (f) or (g) and the conflicting inventions were not commonly owned at the time the invention in this application was made. In order for the examiner to resolve this issue, the assignee can, under 35 U.S.C. 103(c) and 37 CFR 1.78(c), either show that the conflicting inventions were commonly owned at the time the invention in this application was made, or name the prior inventor of the conflicting subject matter.

A showing that the inventions were commonly owned at the time the invention in this application was made will preclude a rejection under 35 U.S.C. 103(a) based upon the commonly assigned case as a reference under 35 U.S.C. 102(f) or (g), or 35 U.S.C. 102(e) for applications pending on or after December 10, 2004.

Conclusion

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 9/27/07 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheela J. Huff whose telephone number is 571-272-0834. The examiner can normally be reached on Tuesday and Thursday from 5:30am to 1:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms can be reached on 571-272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sheela J. Huff

Sheela J Huff
Primary Examiner
Art Unit 1643

sjh